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COPY MAILED

JUL 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Oliver Ralf Petri	:	
Application No. 10/501,085	:	
Filed: July 9, 2004	:	DECISION ON
Title of Invention:	:	PETITION
MICROWAVE MIXER/DRYER REACTOR FOR	:	
INDUSTRIAL USE	:	

This is a decision in response to the renewed petition to revive under 37 CFR 1.181, filed June 5, 2006, to revive the above-identified application. The petition is properly treated as a renewed petition to withdraw the holding of abandonment of the application under 37 CFR 1.181.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed July 27, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on October 28, 2005. A Notice of Abandonment was mailed December 16, 2005.

Applicant filed a petition on February 27, 2006, wherein Applicant averred non-receipt of the Notice.

Decision dismissing the February 27, 2006 petition

A Decision dismissing the February 27, 2006 petition was mailed April 13, 2006. The Decision informed Applicant that an allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received.
2. A copy of the file jacket or docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in Applicant's statement.

Applicant was informed that Applicant must also attest to the fact that a search of the file jacket and docket records indicate that the Notice was not received, and provide a copy of the docket record (or file jacket) where the non-received Notice would have been entered had it been received and docketed¹.

Applicant was advised to file a Request for Reconsideration of Petition and include the necessary statements and copies of documents.

¹ It is noted that Applicant has filed with the petition copies of papers received from this Office; however, there is no assertion that the papers filed with the instant petition constitute Applicant's file jacket and docket records. As such, a copy of the file jacket and docket records where the non-received Notice would have been docketed and entered had it been received, is required.

The instant renewed petition

Applicant files the instant renewed petition and provides a statement that "[t]he Applicant states that he had search[ed] the file jacket and docket records for the above-identified application and the search indicates that the Communication was never received by Applicant." Petition at p.2.

This statement is included in the body of the petition, which is not executed by the Applicant. Also included in the body of the petition, and not as a separate paper, is an attempt to file a Power of Attorney and Change of Correspondence Address. However, the Applicant (inventor) has not executed any such document.

Applicable Law, Rules and MPEP

Applicant is advised that what is required is a statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received. See MPEP 711.03(c).

Here, the person filing the petition was not in a position to know whether a search of the file jacket and docket records was conducted, or what the search revealed. The statement must come from a person with first hand knowledge of the facts alleged. A statement from the Applicant, who is possession of the application file and docket records during the period for which the Notice was mailed, is required.

Power of Attorney and Change of Correspondence Address

As provided in 37 CFR 1.4(c), "[s]ince different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects."

Here, Petitioner attempts to include a Power of Attorney and Change of Correspondence Address within the body of the petition. Petitioner is informed that the rule requires a

separate paper. Petitioner is advised to use the form provided by this Office, available at www.uspto.gov.

It is also noted that the inventor has not executed a Power of Attorney and Change of Correspondence Address. As provided in 37 CFR 1.32, a Power of attorney means a written document by which a principal designates a registered patent attorney or a registered patent agent to act on his or her behalf. Principal means either an applicant for patent [] or an assignee of entire interest of the applicant. The principal executes a power of attorney designating one or more registered patent attorneys or registered patent agents to act on his or her behalf.

Here, Petitioner seeks to appoint herself as the attorney of record, without the apparent consent of the inventor. A properly executed Power of Attorney and Change of Correspondence Address, properly filed as a separate paper, is required.

A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until proper instructions to the contrary are received.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3232.



Derek L. Woods

Attorney
Office of Petitions

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